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ably near future but for the bridge did not conflict with an instruction requiring the jury to consider the value of the property immediately before and immediately after the bridge was constructed by considering its uses and capabilities for the present and reasonably near future.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 564, 565; Dec. Dig. § 243.* 7 Va.-W. Va. Enc. Dig. 729; 14 Va.-W. Va. Enc. Dig. 564; 15 Va.-W. Va. Enc. Dig. 518.]

9. Trial (§ 295*)—Instructions—Construction.—Instructions should be construed as a whole.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 703-717; Dec. Dig. § 295.* 7 Va.-W. Va. Enc. Dig. 743; 14 Va.-W. Va. Enc. Dig. 566; 15 Va.-W. Va. Enc. Dig. 521.]

Error to Circuit Court of City of Elizabeth.

Suit by Sallie H. Peek against the city of Hampton. Judgment for defendant, and plaintiff brings error. Affirmed.

S. Gordon Cumming and *S. J. Dudley*, both of Hampton, for plaintiff in error.

Wm. C. L. Taliaferro, of Hampton, for defendant in error.

EICHELBERGER *v.* MANN.

Jan. 15, 1914.

[80 S. E. 595.]

1. Corporations (§ 76*)—Subscription to Stock—Notice of Organization Meeting.—Code 1904, § 1105a (4), provides that the subscribers to stock of a corporation shall be given 10 days' notice of the organization meeting unless all of the shareholders are present or represented, or unless notice is waived in writing by such of the subscribers as are absent. Defendant was a subscriber to the capital stock of a corporation, and he alone was absent at the organization meeting; it appearing that he was notified of the meeting by telephone on the day it was held, but that the 10 days' notice was not given. Held, that as the failure to give him notice only rendered the proceedings voidable as to him, his execution of a general proxy in writing thereafter was a ratification of the meeting rendering him liable on his subscription contract, and hence the collection of his subscription might be made by motion under section 3211, even though such remedy is restricted to the recovery of money due by contract.

[Ed.—For other cases see Corporations, Cent. Dig. §§ 197-209, 213-218; Dec. Dig. § 76.* 3 Va.-W. Va. Enc. Dig. 538.]

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

2. Corporations (§§ 220, 448*)—Action for Subscription—Defenses—Promoter's Contract.—An agreement by the promoter of a corporation that he and his brother would take the stock off of a subscriber's hands is in no way binding upon the corporation or the other subscribers, who had no notice, and hence, in an action upon the subscription contract, evidence of such collateral agreement is inadmissible.

[Ed. Note.—For other cases, see Corporations, Cent. Dig. §§ 866, 1709, 1789-1792; Dec. Dig. §§ 220, 448.* 12 Va.-W. Va. Enc. Dig. 819.]

3. Corporations (§ 398*)—Action for Subscription—Defenses—Stockholder's Contract.—A mere stockholder has no power to bind a corporation; and hence an agreement by stockholders that, if the subscriber would buy a lot from the corporation, his subscription liability would be terminated is no defense to an action on a subscription contract.

[Ed. Note.—For other cases, see Corporations, Cent. Dig. §§ 1592-1594; Dec. Dig. § 398.* 12 Va.-W. Va. Enc. Dig. 819.]

4. Accord and Satisfaction (§ 16*)—Corporations (§ 354*)—Defense—Satisfaction.—To sustain the defense of accord and satisfaction, a showing of a satisfaction as well as an accord must be made, and hence, in an action on a subscription to stock, proof of an agreement that the subscriber should be excused if he purchased a lot from the corporation is no defense, where it did not appear that any such lot was purchased.

[Ed. Note.—For other cases, see Accord and Satisfaction, Cent. Dig. §§ 116-122; Dec. Dig. § 16;* Corporations, Cent. Dig. § 1496; Dec. Dig. § 354.* 1 Va.-W. Va. Enc. Dig. 81; 14 Va.-W. Va. Enc. Dig. 7; 15 Va.-W. Va. Enc. Dig. 9.]

Error to Circuit Court, Chesterfield County.

Motion by James Mann against H. D. Eichelberger, to recover upon a subscription to the stock of a corporation. There was a judgment for plaintiff, and defendant brings error. Affirmed.

W. B. Smith, of Richmond, and *S. W. Zimmer*, of Petersburg, for plaintiff in error.

Sale, Mann & Tyler, of Norfolk, for defendant in error.

LANSTON MONOTYPE MACH. CO. *v.* TIES-DISPATCH CO.

Jan. 15, 1914.

[80 S. E. 736.]

1. Injunction (§ 58*)—Adequate Remedy at Law—Equity—Negative Covenants.—Whether or not the object of a suit relating to

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.